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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 NORTHERN OCEAN MARINE, INC.,

10 Plaintiff,

11 v.

12 CARL BERG d/b/a BERG SHIPYARD and
13 his marital community, if any; SEA-
14 PACK TRADING CORPORATION, a
15 defunct Washington corporation;
16 HERSCHEL A. COX, JR. and his marital
17 community, if any; WESTMAN
18 INDUSTRIAL COMPANY, INC., a
19 defunct Washington corporation; ALLEN
20 L. THOMAS and MINNIE E. THOMAS
21 and their marital community, if any;
22 CHARLES WALTERS and his marital
23 community, if any; BOBBY BASS and
24 his marital community, if any; and
25 REDDEN MARINE SUPPLY, INC. d/b/a
KACHEMAK GEAR SHED, a Washington
corporation,

Defendants.

IN ADMIRALTY

NO. 09-05058BHS

DEFAULT JUDGMENT AGAINST
DEFENDANTS BERG, SEA-PACK
TRADING AND THOMAS

THIS MATTER comes before the Court on plaintiff's Motion for Entry of
Default and Default Judgment against Defendants Berg, Sea-Pack Trading and

DEFAULT JUDGMENT AGAINST
DEFENDANTS BERG, SEA-PACK TRADING AND THOMAS - 1

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1 Thomas. The Court has fully reviewed and considered the Motion together with
2 the plaintiff's Verified Complaint with exhibits filed on February 3, 2009 (Dkt No.
3 1), the Affidavit of Scott E. Collins with exhibits filed on March 5, 2009 (Dkt No.
4 4), the Declaration of Scott E. Collins with exhibits filed with the Motion, and the
5 remainder of the Court's file and record in this matter. In response to the Motion,
6 the Court has entered default against defendants Carl Berg d/b/a Berg Shipyard,
7 Sea-Pack Trading Corporation, and Allen L. Thomas and Minnie E. Thomas and
8 their marital community.
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10 Based on the foregoing review, the Court hereby finds and concludes as
11 follows:
12

13 A. On or about July 15, 1964, defendant Carl Berg d/b/a Berg Shipyard
14 ("Berg") filed a Notice of Claim of Lien against the vessel CYPRESS, Official
15 Number 224697, ("Vessel") that the United States Coast Guard recorded against
16 the Vessel's title in Book M-3 at page 21. Berg has done nothing of record since
17 1964 to assert or enforce any claim of maritime lien against the Vessel. Mr. Berg
18 has now been deceased for a number of years and Berg Shipyard ceased operating
19 in or around 1973.
20

21 B. On or about June 10, 1987, defendant Sea-Pack Trading Corporation
22 ("Sea-Pack") filed a Notice of Claim of Lien against the Vessel that the Coast
23 Guard recorded against the Vessel's title record in Book PM-122 at page 145. Sea-
24 Pack has done nothing of record since 1987 to assert or enforce any claim of
25

1 maritime lien against the Vessel. Sea-Pack ceased operating many years ago.

2 C. On or about April 26, 1989, defendants Allen L. Thomas and Minnie
3 E. Thomas and their marital community filed a Notice of Claim of Lien against the
4 Vessel that the Coast Guard recorded against the Vessel's title record in Book PM-
5 158 at page 81. The Thomases have done nothing of record since 1989 to assert or
6 enforce any claim of maritime lien against the Vessel. The Thomases are now
7 deceased.
8

9 D. Any attempt at this point by or on behalf of Berg, Sea-Pack and the
10 Thomases to commence any action against the Vessel to assert and/or enforce any
11 claim of maritime lien against the Vessel would constitutes an unreasonable delay
12 in commencing such action.
13

14 E. In 2007 plaintiff Northern Ocean Marine, Inc. acquired ownership of
15 the Vessel. It has been unable to resolve the alleged claims of maritime lien of
16 Berg, Sea-Pack and the Thomases recorded against the Vessel's title on an
17 informal basis. For this and other reasons, plaintiff has been unfairly prejudiced
18 by the persistence of these claims of lien against the Vessel's title record and this
19 action has been necessary to clear the Vessel's title record of these claims.
20

21 F. Berg, Sea-Pack and the Thomases, together with any of their
22 respective heirs and assigns, have forfeited any claims of maritime lien they may
23 have or hold against the Vessel by operation of the doctrine of laches.
24
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1 NOW, THEREFORE, based on the foregoing review, findings and
2 conclusions, the Court hereby ORDERS, ADJUDGES and DECREES that:

3 1. Plaintiff's Motion for Entry of Default and Default Judgment against
4 Defendants Berg, Sea-Pack Trading and Thomas is hereby GRANTED. Default
5 judgment shall be, and hereby is, entered in favor of plaintiff Northern Ocean
6 Marine, Inc. against defendants Carl Berg d/b/a Berg Shipyard, Sea-Pack Trading
7 Corporation, and Allen L. Thomas and Minnie E. Thomas and their marital
8 community, as more fully set forth herein.
9

10 2. Any claims of maritime lien that these defendants, or their heirs and
11 assigns, may have or hold against the vessel Cypress, Official Number 224697,
12 ("Vessel") are hereby declared and adjudged to be forfeited, expired or otherwise
13 terminated by operation of the doctrine of laches.
14

15 3. The United States Coast Guard is hereby authorized and directed to
16 show the expiration and termination of said claims of maritime lien on the Vessel's
17 title record and thereby clear the Vessel's title record of such claims and any
18 notice thereto.
19

20 DONE this 8TH day of June, 2009.

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24 BENJAMIN H. SETTLE
25 US District Court Judge

1 Presented by:

2 *s/ Scott E. Collins*

3 Scott E. Collins, WSBA #18399

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